THE HONOURABLE SRI JUSTICE

B.SESHASAYANA REDDY

WRIT PETITION NO.24777 OF 2003

DISPOSED OF ON 25-01-2006.

BETWEEN:

MONTESSORI ENGLISH MEDIUM HIGH SCHOOL

GUDIVADA, KRISHNA DISTRICT. .. PETITIONER

AND

THE D.E.O., KRISHNA DISTRICT

MACHILIPATNAM. AND OTHERS .. RESPONDENTS

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O R D E R :

1. This Writ Petition has been filed by MONTESSORI ENGLISH MEDIUM HIGH SCHOOL, GUDIVADA, KRISHNA DISTRICT represented by its Correspondent Smt.P.Laxmi Bai assailing the memo No.18147/PS-1/2002-5, dated 11.6.2003 issued by the Education Department, Government of A.P., whereby and where under the proposal for absorption of three unaided SGBT posts into grant-in-aid posts has been negatived.

2. Brief facts of the case leading to filing of this case by the petitioner are as follows:

The petitioner-school was initially started as Upper Primary School and the Government issued G.O.Rt.No.1080 Education Department dated 5.8.1980 permitting the petitioner-school to commence VIII class. Initially four SGBT posts were granted to the petitioner-school while it was Upper Primary School. Only one post was filled up and three posts remained vacant. The unfilled seats came to be revived by the Government in G.O.Ms.No.318, Dated 27.8.1998. Considering the pupil-teacher ratio the petitioner- school appointed three teachers for the aided posts following the due procedure prescribed by Education Department. The appointments made by the school came to be approved by the District Educational officer-1st respondent. When proposals were sent for absorption of three teachers in aided posts, the same came to be negatived by the Education Department under the memo impugned in the writ petition.

3. Counter affidavit has been filed by the respondents. Respondents did not choose to controvert the factual aspects. Para 5 and 6 of the counter affidavit needs to be noted and they read as under:

" 5. In reply to the allegations made in paragraph – IV(D) of the affidavit, it is submitted that the appointment of Smt.e.Kishan Rani (2) Smt.V.Jayaveni were made as per G.O.Ms.No.1, Education, Dated 1.1.1994 and the appointment of Smt.M.Sivaleela was made prior to

issue of G.O.Ms.No.1, Education Dated 1.1.1994 and the same was also approved by the District Educational Officer, Krishna, Machilipatnam in his procs.Dis.No.91-C5/89, dated 9.3.1990.

6. In reply to the allegations made in paragraph – IV (E) of the affidavit, it is submitted that it is a fact that the proposals were submitted to the Regional Joint Director of School Education, Kakinada, vide in this office Lr.Rc.No.12417/86/B6/2001, dated 8.10.2001 to absorb the following teachers the dates noted against them.

1. Smt.M.Siva Leela, SGT – 27.8.98 (from the date of revival of the post).
2. Smt.E.Kishan Rani, SGT – 3.7.2000.
3. Smt.V.jayavani, SGT – 3.7.2000."

4. Heard learned counsel for the parties.

5. Undisputedly three posts which were admitted for grant-in-aid came to be revived under G.O.Ms.No.318 Education, dated 27-8-1998. Candidates selected for three posts came to be approved by the DEO-1st respondent. The objection for admission of these three posts into aided posts seems to be the undertaking given by the petitioner-school at the time of upgrading to High School. Copy of G.O.Rt.No.1080, dated 5.8.1980 has been placed on record and it reads as under:

" In the circumstances stated by Director of School Education in his letter second read above, Government accord permission for the upgradation of Montessori Upper Primary School (English Medium) Gudivada into a High School by opening Class VIII (English Medium) during 1980-81 without any aid from Government now or in future in terms of orders in Government Order first read above. The District Educational officer, Krishna is requested to ensure that all the conditions laid down in Andhra Pradesh Educational Rules including creation of endowment of Rs.35,000/- in the joint name of the management and the District Educational Officer concerned as per rule 62(a) of Andhra Pradesh Educational Rules issued in G.O.Ms.No.1102 Edn., dt.18.11.1978 are fulfilled by the management before the school is actually upgraded into a High School."

It is explicit from the above referred G.O.Rt.No.1080, dated 5.8.1980 that the undertaking relates to the teaching staff of the high school and not Upper Primary School. The three aided posts were granted while the petitioner-school was Upper Primary School. Therefore, the objection raised by the respondents in granting approval for absorption of the three teachers into aided posts is unjustified.

6. Accordingly, this writ petition is disposed of directing the respondents to re-consider the proposal sent by the petitioner-school and pass appropriate orders afresh keeping in view the fact that the posts came to be revived as per G.O.Ms.No.318 Education (P.S.1) Department, Dated 27.8.1998 as expeditiously as possible preferably within three months from the date of receipt of a copy of this order. No costs.

Dated: 25-01-2006. (B.Seshasayana Reddy,J)

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